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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,266	11/27/2001	Frederic Bauchot	FR920000062US1	1319
30449 7590 07/13/2007 SCHMEISER, OLSEN & WATTS 22 CENTURY HILL DRIVE SUITE 302 LATHAM, NY 12110			EXAMINER SINGH, RACHNA	
			ART UNIT 2176	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/995,266	Applicant(s) BAUCHOT, FREDERIC	
	Examiner Rachna Singh	Art Unit 2176	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 June 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.



Continuation of 11. does NOT place the application in condition for allowance because: On pages 10-12 of the Remarks, Applicant argues there is an incorrect ground of rejection based on the Flaherty in view of the Excel Screen Shots. Specifically, Applicant argues Flaherty has no publication date. In a telephone interview on August 16, 2006, Examiner indicated she would provide evidence that the features disclosed in Flaherty were implemented in Microsoft Excel Copyrighted in 1999. As evidence of this fact, the Examiner has provided screen shots from Microsoft Excel 2000, having a copyright date from 1985-1999. The screen shots illustrate the various claimed features discussed in the Flaherty reference. For example, Flaherty teaches a means for filling in empty cells in a range of cells within a spreadsheet. See page 2. Flaherty discloses: Selecting a range of cells wherein some of the cells comprise empty cells and cells containing a value such as the month, day of the week, or number. See page 2, "Using the Fill Handle" and figures on pages 2-3. The supplied screen shots illustrate this feature was available in 1999. Similarly, Flaherty discloses entering a data series with specific start and stop values entered for a data series. For example cell A2 may contain a start value of 10 and a stop value of 90 is indicated with a step value of 5. See pages 4-5, "Entering a Data Series". In indicating a start and stop value in a series of cells, the "previous sample cell" and "next sample cell" of the empty cells in between the start value and stop value are specified. The data series feature is also illustrated in the Excel screen shots available in 1999.

Applicant argues that Flaherty cannot be used even if evidenced by screen shots and the use of Flaherty is not proper.

Applicant argues the Examiner's analysis does not demonstrate the features in the 1999 version of EXCEL and there is no connection. Examiner has provided various screen shots of Microsoft Excel (copyright in 1999) to prove that the features disclosed in Flaherty reference were disclosed in 1999 as well as outlined these features above. Each of the screenshots provided in the last office action correlate to the figures in the Flaherty reference. For example:

- The second figure on page 2 of Flaherty corresponds to the figure on page 3 of the screenshots.
- The first figure on page 3 of Flaherty corresponds to the figure on page 4 of the screenshots.
- The second figure on page 3 of Flaherty corresponds to the figure on page 5 of the screenshots.
- The second figure on page 4 of Flaherty corresponds to the figure on page 6 of the screenshots.
- The first figure on page 5 of Flaherty corresponds to the figure on page 7-9 of the screenshots.
- The third figure on page 5 of Flaherty corresponds to the figure on page 10 of the screenshots.
- The last figure on page 11 of Flaherty corresponds to the figure on page 11 of the screenshots.
- The second figure on page 12 of Flaherty corresponds to the figure on page 12 of the screenshots

Applicant argues there is no publically available source for the screenshots. Microsoft Excel 2000, copyright date 1985-1999 was available to the public during those dates. Examiner has also provided the screen shots of Microsoft Excel as a reference or NPL literature in the last office action. MPEP 2131.01 discussed multiple reference 35 U.S.C. 102 Rejections where multiple references can be used to prove the primary reference contains an enabled disclosure. Specifically, when a claimed machine is disclosed identically by the reference, an additional reference may be relied upon to show that the primary reference has an "enabled disclosure". Also, an extra reference or evidence can be used to show an inherent characteristic of the thing taught by the primary reference. Such is the case here. The Microsoft Excel 2000 screen shots are evidence that the teachings of the primary reference were an inherent characteristic of the spreadsheet.

On pages 12-13, Applicant continues to argue the validity of the Excel reference citing that claim 1 is not rejected using the screen shots. Examiner disagrees and refers Applicant to pages 2-5 of the Final Rejection mailed on 05/07/07.

On pages 13-16, Applicant argues Flaherty does not teach the features of claim 1. Applicant argues Flaherty does not teach "selecting the range of cells, said range comprising a plurality of sample cells and one or a plurality of empty cells, wherein prior to selecting each sample cell contains a sample value. . . ; after said selecting, ordering the sample cells. . . ; and after said ordering, processing the empty cells comprising. . . computing the value y_i of the empty cell according to the values y_{previous} contained in the selected one or plurality of previous sample cells, and the values y_{next} contained in the selected one or plurality of next sample cells. Applicant argues Flaherty does not teach entering a data series with a specific start and stop value prior to a selection of a range of cells. Examiner disagrees. Flaherty teaches selecting a range of cells wherein some of the cells comprise empty cells and cells containing a value such as the month, day of the week, or number. See Flaherty page 2, "Using the Fill Handle" and figures on pages 2-3. See also EXCEL screenshots on pages 3-5 demonstrating the same. (The cells comprise a sample cell filled with values (see Flaherty page 3, first figure and the corresponding EXCEL screenshot on page 4) and empty cells contain no value (see Flaherty page 3, second figure and the corresponding EXCEL screenshot on page 5) Compare to "selecting the range of cells, said range comprising a plurality of sample cells (i.e. Flaherty B2 in figure 2 on page 2 and the corresponding EXCEL screenshot on page 3) and one or a plurality of empty cells (i.e. Flaherty B3 in figure 2 on page 2 and the corresponding EXCEL screenshot on page 3), wherein prior to said selecting each sample cell contains a sample value, and an empty cell contains no value or a value not considered as a sample value; the content y_i of each sample cell and each empty cell being associated with a particular value x_i of a variable x ;" See EXCEL screenshots depicting the same on page 3 which depicts a range of cells comprising sample cells and one or more of a plurality of empty cells wherein the sample cell has a sample value and the empty cell has no value as in the first figure on page 3. On page 3 of Flaherty, the first figure represents sample cells with sample values and empty cells with no value before the selection of a range is made as in the second figure on page 3. Therefore, Flaherty (i.e. Excel) teaches filling in sample cells with a value prior to selecting the range.

Regarding claim 2, Applicant argues Flaherty does not teach the features of claim 2 because the algorithm in Flaherty uses y -values in computing the value y of each empty cell but does not use the x values. Examiner disagrees. Flaherty teaches entering a data series with specific start and stop values entered for a data series. For example cell A2 may contain a start value of 10 and a stop value of 90 is indicated with a step value of 5. See Flaherty pages 4-5, "Entering a Data Series" and the corresponding EXCEL screenshot on pages 6-9. In indicating a start and stop value in a series of cells, the "previous sample cell" and "next sample cell" of the empty cells in between the start value and stop value are specified. Regarding claim 8, Applicant argues Flaherty does not teach using the formula required by claim 8. However, Flaherty teaches the value of y_i is calculated by determining the pattern in the range of cells. This entails determining content of a previous/start cell and next/stop cell and the value associated with the content in order to determine the value of the empty cell. For example, content and value of a previous/start cell and a next/stop cell are used to calculate what goes into an empty cell. See Flaherty pages 4-5, "Entering a Data Series" and the corresponding EXCEL screenshot on pages 6-9. Regarding claim 9, Applicant

argues Flaherty does not teach a double column or double row. Flaherty discloses a means in which a selected range of cells comprises a double column and row of cells. See Flaherty figures on pages 1-2 and the corresponding EXCEL screenshot on page 3. Each cell comprises a value. On pages 18-20, Applicant argues Flaherty does not teach the features claimed in claims 10, 11, and 22. Applicant merely states the claim features are not taught by the cited portions of Flaherty without explaining why those portions do not teach what the Examiner purports it teaches. Regarding claim 23, Applicant argues Flaherty does not teach the use of color; however, Flaherty teaches custom formatting of cells where a user can indicate a range of cells and font, border, pattern, and background information. See Flaherty page 12 and the corresponding EXCEL screenshot on page 12. Regarding claim 24, Applicant argues Flaherty does not teach use of a plurality of previous, next, or both cells for computing y at the at least one empty cell. However, Flaherty teaches entering a data series with specific start and stop values entered for a data series. For example cell A2 may contain a start value of 10 and a stop value of 90 is indicated with a step value of 5. See Flaherty pages 4-5, "Entering a Data Series" and the corresponding EXCEL screenshot on pages 6-9. In indicating a start and stop value in a series of cells, the "previous sample cell" and "next sample cell" of the empty cells in between the start value and stop value are specified.

In view of the comments above, the rejection is maintained.